

ASSEMBLY BILL

No. 1799

Introduced by Assembly Member Mayes

February 8, 2016

An act to amend Section 5100 of the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 1799, as introduced, Mayes. Common interest developments: association governance: elections.

The Davis-Stirling Common Interest Development Act defines and regulates common interest developments. The act requires a common interest development to be managed by an association, requires the association to select one or 3 independent 3rd parties as an inspector or inspectors of elections, and generally requires the association's elections regarding assessments legally requiring a vote, election and removal of directors, amendments to the governing documents, or the grant of exclusive use of common area, to be conducted by the inspector or inspectors of elections in accordance with specified procedures. The act excepts from these election requirements an election of directors if the governing documents of the association provide that one member from each separate interest is a director.

This bill would additionally except from those election requirements an election of directors if the election is uncontested, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 5100 of the Civil Code is amended to read:

5100. (a) Notwithstanding any other law or provision of the governing documents, elections regarding assessments legally requiring a vote, election and removal of directors, amendments to the governing documents, or the grant of exclusive use of common area pursuant to Section 4600 shall be held by secret ballot in accordance with the procedures set forth in this article.

(b) This article also governs an election on any topic that is expressly identified in the operating rules as being governed by this article.

(c) The provisions of this article apply to both incorporated and unincorporated associations, notwithstanding any contrary provision of the governing documents.

(d) The procedures set forth in this article shall apply to votes cast directly by the membership, but do not apply to votes cast by delegates or other elected representatives.

(e) In the event of a conflict between this article and the provisions of the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) relating to elections, the provisions of this article shall prevail.

(f) Directors shall not be required to be elected pursuant to this article if the governing documents provide that one member from each separate interest is a ~~director~~ *director; or if the election of directors is uncontested. For purposes of this subdivision, an election is uncontested if the number of candidates for election does not exceed the number of directors to be elected at that election.*